

INTERIM LICENSING AND REGISTRATION STANDARDS

SECTION 1. SCOPE

These standards shall apply to electric power suppliers, gas suppliers, energy agents and private aggregators as defined below.

Electric power suppliers and gas suppliers shall apply for and obtain a license from the Board pursuant to the standards and procedures herein.

Energy agents and private aggregators shall register with the board pursuant to the standards and procedures herein.

No electric power supplier, gas supplier, energy agent or private aggregator shall contract, offer to contract, enroll, provide generation service or gas supply service, or arrange for a contract for the provision of these services without having obtained a license from or having registered with the Board, as appropriate.

SECTION 2. DEFINITIONS

As used in this rule:

"Act" means the "Electric Discount and Energy Competition Act" (P.L.1999,c.23);

"Board" means the New Jersey Board of Public Utilities or any successor agency;

"Broker" means a duly licensed electric power supplier that assumes the contractual and legal responsibility for the sale of electric generation service, transmission or other services to end-use retail customers, but does not take title to any of the power sold, or a duly licensed gas supplier that assumes the contractual and legal obligation to provide gas supply service to end-use retail customers, but does not take title to the gas;

"Customer" means any person that is an end user and is connected to any part of the transmission and distribution system within an electric public utility's service territory or a gas public utility's service territory within this State;

"Electric power supplier" means a person that is duly licensed pursuant to the provisions of this act to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes, load serving entities, marketers and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as a basic generation service pursuant to section 9 of the Act;

"Electric public utility" means a public utility, as that term is defined in R.S.48:2-13, that transmits and distributes electricity to end users within this State;

"Electric related service" means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances, lighting, motors or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Energy agent" means a person that is duly registered pursuant to the provisions of the Act, that arranges the sale of retail electricity or electric related services or retail gas supply or gas related services between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold;

"Energy consumer" means a business or residential consumer of electric generation service or gas supply service located within the territorial jurisdiction of a government aggregator;

"Gas public utility" means a public utility, as that term is defined in R.S.48:2-13, that distributes gas to end users within this State;

"Gas related service" means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end user's premises, and the provision of energy consumption measurement and billing services;

"Gas supplier" means a person that is duly licensed pursuant to the provisions of the Act to offer or provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the board pursuant to subsection k. of section 10 of the Act;

"Gas supply service" means the provision to customers of the retail commodity of gas, but does not include any regulated distribution service;

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes contractual and legal obligation to provide electric generation service, and may include

transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers;

"Person" means an individual, partnership, corporation, association, trust, limited liability company, governmental entity or other legal entity;

"Private aggregator" means a non-government aggregator that is a duly-organized business or non-profit organization authorized to do business in this State that enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, or with a duly licensed gas supplier for the purchase of gas supply service, on behalf of multiple end-use customers by combining the loads of those customers;

"Retail choice" means the ability of retail customers to shop for electric generation or gas supply service from electric power or gas suppliers, or opt to receive basic generation service as basic gas service, and the ability of an electric power or gas supplier to offer electric generation service or gas supply service to retail customers, consistent with the provisions of the Act;

SECTION 3. LICENSING

1. Electric Power Supplier and Gas Supplier License Application Process

(a) Applications shall be made on forms provided by the Board.

(1) Application forms can be obtained at the Board of Public Utilities' offices in Newark, New Jersey; by writing to the Board at 2 Gateway Center, Newark, New Jersey, 07102; by calling 973-648-2065 or through the BPU website at www.njin.net/njbpu.

(2) All applications must satisfy the requirements of Section 3.3, herein, and must be accompanied by an application fee of \$250, or as otherwise determined by the Board.

(3) The Board will process all completed application requests and notify applicants of its determination within 60 days of the receipt of the application.

(i) In cases where additional information is required from the applicant, the 60 day processing time period begins when the required additional information has been received and time-stamped by the Board.

(ii) In cases where the Board has not completed its review process and notified the applicant of its determination within 60 days, or for other special circumstances, as

determined by the Board, the Board shall issue the applicant a provisional electric power supplier license, valid for no longer than 90 days.

- (iii) Provisional licenses may be extended one time by the Board for an additional 90 days.
- (b) After processing by the Board and upon a determination by the Board that the applicant has met all the requirements in subsection 3.3 , the Board shall provide a notice of acceptance to the applicant. Upon payment of a licensing fee the Board shall issue the applicant an electric power supplier or a gas supplier license . The initial fee, to cover portions of the licensing unit costs, environmental disclosure, and if determined by the Board, consumer education costs, for an electric power supplier license shall be \$1,000 The initial fee, to cover portions of the licensing unit costs, and, if determined by the Board, consumer education costs, for a gas supplier license shall be \$800.
- (c) Electric power and gas supplier licenses shall be valid for a period of one year from date of issue.

2. License Renewals

- (a) To renew a valid electric power or gas supplier license, the licensee must apply for renewal no later than 30 days before the expiration date of the current license.
 - 1. The application for renewal must be on such form(s) as prescribed by the Board Application forms can be obtained at the Board of Public Utilities' offices in Newark, NJ, by writing to the Board, by calling 973-648-2065 or through the BPU website at www.njin.net/njbpu
 - 2. The renewal application shall include, at a minimum:
 - i. The number of customers, by customer class (i.e. utility specific rate schedule,) currently being served by the licensee;
 - ii. The licensee's most recent 12 month and calendar year sales volumes in New Jersey, by customer class (i.e. utility specific rate schedule); including a copy of the licensee's latest tax report as required by the Department of the Treasury pursuant to P.L. 1997, c.162;
 - iii. A listing of the number of residential customers it serves in the State, by Zip plus 4.
 - iv. Any changes to the information contained in the licensee's most recent license application or renewal;
 - v. Proof that a surety bond, or other approved security, has been obtained pursuant to

Section 4(e) and will be maintained throughout the period for which the license is valid.

vi. Such other information as may be required by Board Order; and

3. (a) If a licensee has filed a completed renewal application in accordance with subsections 1 and 2 above, the applicant's current license shall not expire until the renewal application is acted upon by the Board .

(b) After processing by Board Staff and upon a determination by the Board that the renewal application is complete and acceptable, and upon payment of a license renewal fee, the Board shall issue a one year license renewal.

1. Such renewal fee for electric power suppliers will be \$500 or a fee determined by apportioning a share of the Board's licensing unit, environmental disclosure, and, if determined by the Board, consumer education costs to each applicant based upon a percentage of the state's electric load served by the licensee, whichever is higher. Such renewal fee for gas suppliers will be \$400 or a fee determined by apportioning a share of the Board's licensing unit, and, if determined by the Board, consumer education costs to each applicant based upon a percentage of the state's gas load served by the licensee, whichever is higher.

3. Electric Power Supplier and Gas Supplier Application Requirements

(a) Applications shall include:

1. Legal name as well as the name under which the electric power or gas supplier proposes to do business in New Jersey;
2. Mailing and business address(es);
3. Telephone number(s), facsimile number(s), e-mail address(es) and Internet address(es);
4. Statement describing the company's history, and a company profile.
5. A list of types of services and/or products which the company plans to offer in New Jersey to residential, commercial and industrial customers;
 - i. For applicants intending to market to residential customers, a sample residential contract.
6. Evidence of financial integrity including:

- i. Two years of audited financial statements and

If applicant has not been in business long enough to satisfy this requirement, it shall file: (1) income statements and balance sheets covering the life of the business; and (2) credit reports or ratings prepared by established credit reporting agencies regarding the credit and payment history of the applicant.

- ii. A reference from a lending institution

- iii. A list of any bankruptcy filings made by the applicant, or any officer or director of the applicant, within the past 24 months.

- 7. Statement disclosing any existing, pending or past adverse rulings, judgments, litigation, contingent liabilities, revocations of authority, administrative regulatory (State, FERC or SEC) investigations and any other matters relating to financial or operational status for the past 3 years that arise from the sale of electricity or natural gas, or materially affect current financial or operational status;
- 8. Ownership interests of the supplier;
- 9. Statement detailing any criminal activities of which the applicant has been charged or convicted, or of which the principal or corporate officers of the applicant has been charged or convicted;
 - i. Applicant may be required to authorize a release of criminal history record information from the New Jersey State Police.
- 10. The name and address of the in-state agent of the supplier that is authorized to receive service of process and the name and address of the in-state customer service agent of the supplier per subsection 4(d) herein.
- 11. For electric power suppliers, the quantity of retail electric sales, kwh and revenues, by month and customer class, made in New Jersey during the 12 months preceding the application or license renewal. For gas suppliers, the quantity of retail natural gas sales, decatherms and revenues, by month and customer class, made in New Jersey during the 12 months preceding the application or license renewal.
- 12. A licensee must maintain a surety bond, in an amount prescribed in Section 4(e), to insure against a failure to pay taxes or assessments, or a failure to meet contractual commitments to deliver electric generation service or gas supply service.

13. For applications filed prior to December 1, 1999, a certification that applicant is “Y2K” ready or compliant.
14. Other information as the Board may, through Board Order, deem necessary.

4. Condition for Maintaining a License in Good Standing

- (a) A licensee serving electric load in the franchise area of Public Service Electric & Gas Company, GPU Energy or Conectiv must meet the requirements of a Load Serving Entity as defined by the PJM Reliability Assurance Agreement. In addition, all electric power supplier applicants must meet all reliability standards of the Mid-Atlantic Area Council of the North American Electric Reliability Council or its successor, the PJM Interconnection, L.L.C. and/or the New York Independent System Operator, the Federal Energy Regulatory Commission, the Board or any other state, regional, federal or industry body with authority to establish reliability standards.
- (b) A licensee serving natural gas load must meet all reliability standards of the Federal Energy Regulatory Commission, the Board or any other state, regional, federal or industry body with authority to establish reliability standards.
- (c) A licensee serving natural gas load must meet the safety standards of the Liquified Natural Gas Facilities: Federal Safety Standards: Part 193, Title 49 of the Code of Federal Regulations (Federal Code), The Natural Fuel Gas Code (ANSI Z223.1/NFPA 54, the Board of Public Utilities (BPU); and any other state, regional or industry body with authority to establish safety standards.

The gas supplied must be of pipeline quality with the following characteristics:

- 1) Minimum Heating Value
 - i) The minimum average heating value of any gas delivered into a distribution system in New Jersey shall not be less than one thousand (1,000) BTU per cubic foot of gas. The average heating value shall not be less than 1,000 BTU per cubic foot at 14.73 psia and 60 degrees Fahrenheit.
 - ii) When supplemental or substitute gas is distributed , the gas supplier will make every reasonable effort to maintain gas characteristics and quality so that utilization performance will be satisfactory regardless of the heating value of the gas.
- 2) Gas Purity

- i) All gas supplied to customers in this State shall be substantially free from dangerous or objectionable quantities of impurities such as hydrogen sulphide, nitrogen or other combustible or noncombustible, noxious, or toxic gases or other impurities. A gas shall be considered free from undesirable impurities when the quantity of any impurity present is within the limits recognized as allowable in good practice.
- ii) All gas supplied to customers shall not contain impurities which may cause excessive fumes when burned in a properly designed and adjusted burner.

National Standards and FERC approved tariffs of the interstate pipelines serving the state, including amendments thereto, shall, where applicable, supercede the requirements in 1 and 2 above.

- (d) A licensee must maintain an office within New Jersey, as defined by the Board, for the purposes of accepting service of process, maintaining such records as the Board requires and ensuring accessibility to the Board, consumers and electric and gas public utilities.
 - 1) A licensee shall file with the Board a designation in writing of an agent, resident of this State, upon whom legal process and process for the production of any records, books, accounts, documents and other writings associated with the vendor's business within New Jersey may be served. Such designation shall set out the name of such agent and his or her places of residence and business.
 - 2) Every licensee shall have a representative who will be accessible by phone on a timely basis, and in person when required, to the Board and its staff, and DCA and its staff. The duties of the vendor's representative shall include, but not be limited to, responding to inquiries, facilitating the resolution of billing problems, and assisting the Board and DCA in customer service related investigations.
 - (i) Compliance with this provision is in addition to any rule, regulation or Board Order requiring the licensee to provide a toll free customer service number.
 - 3) A licensee shall, at its New Jersey office, maintain summary records related to energy contracts or transactions entered into with New Jersey customers or services provided by the supplier to New Jersey customers. Copies of all contracts or other writings authorizing the provision of service by the supplier to each of its New Jersey customers, subject to reasonable confidentiality requirements allowed under State and federal statute, or as determined by the Board Order, shall be made available for inspection by the Board upon 48 hours notice.
 - 4) A licensee shall, at its New Jersey office, maintain for a period of three years, a record of

customer complaints and the resolution thereof.

- 5) A hard copy printout and/or on-line access of all items required by subsections (3) and (4), at the suppliers' New Jersey office(s) from data bases located outside the State will meet the requirements of these subsections.
- (e) A licensee must maintain a surety bond or equivalent financial instrument, as determined by the Board, to insure against a failure to pay taxes or assessments, or a failure to meet contractual commitments to customers to deliver electric generation service or gas supply service.
1. The amount of the bond required in order to be granted an initial license is \$250,000
 2. Modifications of this amount commensurate with the amount of anticipated business to be conducted in this state may be granted by the Board where substantial evidence is submitted in support of the modification.
 - i. A request for modification of this initial bonding amount may be made in conjunction with the initial application.
 3. Bonding requirements for license renewals will be based on a percentage, as determined by the Board, of the licensee's sales information as reported in its license renewal application.
 4. Bonding requirements may be increased at such time as the Board determines is necessary to protect the interests of the ratepayers of the State.
 - i. Prior to the filing of an annual license renewal application, licensee shall report to the Board at any time when its sales volumes have increased by 33% from its previously reported amount and the Board may increase its surety bond accordingly.
- (f) The licensee must comply with such specific standards of conduct for electric power and gas suppliers, environmental disclosure requirements, renewable portfolio requirements, safety and service quality standards and consumer protection requirements, including slamming standards as the Board shall adopt.
- (g) The licensee must provide the Board, six months after the effective date of its initial license, and thereafter in accordance with the Board's license renewal process, a listing of the number of residential customers it serves in the state, by Zip plus 4.
- (h) The licensee must agree to provide through legal certification by an officer of the electric power or gas supplier such information as the Board or its staff, or the Division of Consumer Affairs or its

staff shall require to assist the agencies in undertaking an investigation of a complaint against the electric power or gas supplier or in making any determination concerning revocation, suspension issuance or renewal of the supplier's license pursuant to Section 32 of P.L 1999, c32.

SECTION 4. REGISTRATION

1. Energy Agent Registration Process

- (a) Registration shall be made on forms provided by the Board. Registration forms may be obtained at the Board of Public Utilities' offices in Newark, NJ, by writing to the Board, by calling 973-648-2065 or through the BPU website at www.njin.net/njbpu
 - (1) All registration forms must be accompanied by a registration fee of \$500, or as determined by the Board.
 - (2) The Board Staff will process all completed registration forms and confirm with the registrant compliance with this rule within 60 days of the receipt of the registration form. The confirmation notice will also indicate the effective registration date.
 - (i) In cases where additional information is required from the applicant, the 60 day processing time period begins when the required additional information has been received and time-stamped by the Board.
 - (ii) In cases where the Board has not completed its review process and notified the applicant of its determination within 60 days, the registrant shall be assumed in compliance with this rule for the purpose of Board sanctions or penalties pursuant to Section 6, herein.
- (b) The energy agent registration application shall include
 - (1) the applicant's name, address and telephone number and website address
 - (2) the applicant's business affiliation or a business profile
 - (3) evidence of financial integrity including
 - i. income statements and balance sheets covering the past 2 years or the life of the business, whichever is shorter,
 - and

- ii. a reference from a lending institution
- (4) evidence of knowledge of the energy industry and/or evidence of the ability to aggregate large numbers of customers and prepare Requests for Proposals for commodity and energy-related services for large numbers of customers.
- (5) a list of licensed electric power or gas suppliers through which the registrant has arranged for the delivery of electric energy, natural gas and/or electric energy or gas services.
- (6). statement disclosing any existing, pending or past adverse rulings, judgments, litigation, contingent liabilities, revocations of authority, administrative regulatory (State, FERC or SEC) investigations and any other matters relating to financial or operational status for the past 3 years that materially affect current financial or operational status;
- (7). Ownership interests of the energy agent;
- (8). Statement detailing any criminal activities of which the applicant, its subsidiaries, affiliates or parent has been charged or convicted, or of which the principal or corporate officers of the applicant, its subsidiaries, affiliates or parent has been charged or convicted;
 - i. Applicant may be required to authorize a release of criminal history record information from the New Jersey State Police.
- (c) Energy agent registration shall be valid for one year.
 - (1) An energy agent must apply for renewal within 30 days before the expiration date of the current registration.
 - i The application for renewal must be on such form(s) as prescribed by the Board.

Application forms can be obtained at the Board of Public Utilities' offices in Newark, NJ, by writing to the Board, by calling 973-648-2065 or through the BPU website at www.njin.net/njbpu.
 - ii. The renewal application shall provide an update to all information contained in the energy agent's previous application or renewal and be accompanied by a renewal fee of \$200 or, as prescribed by the Board.
 - iii. (a) If an energy agent has filed a completed renewal application in accordance with Sections 1 and 2 above, the applicant's current registration shall not expire until the renewal application is acted upon by the Board .

(b) After processing by Board Staff and upon a determination by the Board that the renewal application is complete and acceptable, the Board shall issue a one year registration renewal.

2. Private Aggregator Registration Process

(a) Registration shall be made on forms provided by the Board.

- (1) Registration forms can be obtained at the Board of Public Utilities' offices in Newark, NJ, by writing to the Board, by calling 973-648-2065 or through the BPU website at www.njin.net/njbpu..
- (2) All registration forms must be accompanied by a registration fee of \$500, or as determined by the Board.
- (3) The Board will process all completed registration forms and confirm with the registrant compliance with this rule within 60 days of the receipt of the registration form. The confirmation notice will also indicate the effective registration date.
 - (i) In cases where additional information is required from the applicant, the 60 day processing time period begins when the required additional information has been received and time-stamped by the Board.
 - (ii) In cases where the Board Staff has not completed its review process and notified the applicant of its determination within 60 days, the registrant shall be assumed in compliance with this rule for the purpose of Board sanctions or penalties pursuant to Section 6, herein.

(b) The private aggregator registration application shall include

- (1) the applicant's name, address, telephone number and website address
- (2) the applicant's business affiliation or business profile
- (3) evidence of financial integrity
 - i. income statements and balance sheets covering for the past 2 years or the life of the business, whichever is shorter, and
 - ii. a reference from a lending institution

- (4) evidence of knowledge of the energy industry
- (5) a list of licensed electric power and/or gas suppliers through which the registrant has arranged for the delivery of electric generation or gas supply service.
- (6) statement disclosing any existing, pending or past adverse rulings, judgments, litigation, contingent liabilities, revocations of authority, administrative regulatory (State, FERC or SEC) investigations and any other matters relating to financial or operational status for the past 3 years that materially affect current financial or operational status;
- (7) Ownership interests of the supplier;
- (8) Statement detailing any criminal activities of which the applicant, its subsidiaries, affiliates or parent has been charged or convicted, or of which the principal or corporate officers of the applicant, its subsidiaries, affiliates or parent has been charged or convicted;
 - i. Applicant may be required to authorize a release of criminal history record information from the New Jersey State Police.

(C) Private Aggregator registration shall be valid for one year.

- (1) A private aggregator must apply for renewal within 30 days before the expiration date of the current registration.
 - i. The application for renewal must be on such form(s) as prescribed by the Board. Application forms can be obtained at the Board of Public Utilities' offices in Newark, NJ, by writing to the Board, by calling 973-648-2065 or through the BPU website at www.njin.net/njbpu.
 - ii. The renewal application shall provide an update to all information contained in the energy agent's previous application or renewal and be accompanied by a renewal fee of \$200 or, as prescribed by the Board.
 - iii. If an energy agent has filed a completed renewal application in accordance with Sections 1 and 2 above, the applicant's current registration shall not expire until the renewal application is acted upon by the Board .
- (2) After processing by the Board and upon a determination by the Board that the renewal application is complete and acceptable, the Board shall issue a one year registration renewal.

SECTION 5. CONFIDENTIALITY

Except for sample contracts filed in compliance with subsection 3- 3(a)5(i), and sales volumes and revenues, by customer class, filed in compliance with subsection 3-2(a)(2)ii and subsection 3-3(a)(11), all information provided as a part of the Electric Power Supplier licensing process, the Gas Supplier licensing process, both license renewal processes, Energy Agent registration process, Private Aggregator registration process, and both registration renewal processes shall be considered public information by the Board and Board Staff.

SECTION 6. ENFORCEMENT

A failure to comply with the licensing or registration requirements of these Standards will subject the licensee or registrant to the authority of the Board pursuant to Sections 31, 32, 33, 34 and 35 of the Act.

In considering violations of the Act and/or the Board's Standards and Rules, the Board may consider every day of each violation against each customer as a separate offense.